

N27VHERT

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

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3 HERMÈS INTERNATIONAL, et al.,

4 Plaintiffs,

5 v.

22 Civ. 384 (JSR)

6 MASON ROTHSCHILD,

7 Defendant.

Trial

8 -----x

New York, N.Y.
February 7, 2023
11:00 a.m.

10 Before:

11 HON. JED S. RAKOFF,

12 District Judge
13 -and a Jury-

14
15 APPEARANCES

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23 CHRISTOPHER SPRIGMAN

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(Trial resumed; jury not present)

THE COURT: So we've received another note from the jury which we've marked as Jury Note No. 3. It reads as follows: On instruction 14, when you say "Mr. Rothschild's use of the Birkin mark... was intentionally designed to mislead potential consumers into believing that Hermès was associated with..." specifically the word "associated," does that mean that Hermès sanctioned, participated in, involved with the creation of or consumers associating Hermès goodwill, exclusively uniqueness of the mark with MetaBirkin.

So I would propose the following response for your consideration: To the jury, thank you for your most recent note. As used in the third paragraph of instruction 14, the word "associated" means that Mr. Rothschild intended that potential consumers of the MetaBirkins NFTs (including the underlying images) would think that the MetaBirkins NFTs were sponsored by or approved by Hermès or that Hermès had otherwise agreed to be connected to the MetaBirkins NFTs.

So any problems with that from plaintiff?

Do you want me to read it again?

MR. WARSHAVSKY: Your Honor, I might ask you to, because when I first read this I thought the answer to both was yes, and that's where my head was. So if I could just -- I was trying to keep up by reading just to make sure.

THE COURT: All right.

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1 To the jury, thank you for your most recent note. As
2 use you had in the third paragraph of instruction 14, the word
3 "associated" means that Mr. Rothschild intended that potential
4 consumers of the MetaBirkins NFTs, including the underlying
5 images, would think that the MetaBirkins NFTs were sponsored by
6 or approved by Hermès or that Hermès had otherwise agreed to be
7 connected to the MetaBirkins NFTs.

8 MR. WARSHAVSKY: That sounds right, your Honor.

9 Oh, no, no, no. I'm sorry.

10 MR. FERGUSON: I apologize, your Honor.

11 In the jury instruction discussion, Attorney Wilcox
12 had asked your Honor to find that there be a separate part of
13 paragraph 14 for each of -- separate one for the likelihood of
14 confusion and the dilution. Because likelihood of -- with
15 dilution, you don't have to show a likelihood of confusion.
16 And when she raised that point, your Honor's response was that
17 the word "association" captured both likelihood of confusion
18 and dilution.

19 At this point --

20 THE COURT: Which is, I think, clear from the earlier
21 instructions, where, for example, in defining "dilution," it
22 references to associated.

23 So now what's your problem -- you have correctly
24 remembered the record. What's your problem with the current
25 proposal?

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1 MR. FERGUSON: My concern is that the response
2 indicates that only the elements of the likelihood of confusion
3 should be considered, whereas our position --

4 THE COURT: That may be by -- as to "sponsored by" or
5 "approved," but that's why I added -- oh, I see. You're saying
6 because you can have dilution, even if Hermès never agreed to
7 the --

8 MR. FERGUSON: That's correct, your Honor. And that's
9 why I think that it also -- it's not one or the other, it's
10 both.

11 The second --

12 THE COURT: Yes, I agree with that part.

13 MR. SPRIGMAN: Your Honor, if I might.

14 THE COURT: Yes.

15 MR. SPRIGMAN: If, in fact -- so, first of all, I
16 don't agree with that. I think that what you have read is
17 adequate. The Lanham Act says cause a stake or deceive as to
18 the origin, sponsorship or approval. Those are the key words.
19 And I think your articulation captures that.

20 But with respect to dilution, your Honor, the
21 intention, if we're going to talk about the intention, that he
22 has is not simply to associate, because that is not liability
23 for dilution; it is to diminish the selling power of the mark,
24 which is an entirely additional thing. And the key thing --
25 because I think where courts have made mistakes with dilution,

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1 it's not to pay attention to the diminishment of the selling
2 power of the mark and to leverage mere association into
3 liability, which is a mistake.

4 THE COURT: Okay. So you would send in my note as is.

5 MR. SPRIGMAN: I would.

6 And with respect to the second part, consumers
7 associating Hermès goodwill, this I think is the danger, your
8 Honor, that the jury is actually manifesting, which is that
9 this is an artwork that references the Birkin bag. And so of
10 course there's an association --

11 THE COURT: You have exactly intuited what I had in
12 mind when I wrote this proposed instruction, was to make sure
13 they didn't fall into that trap.

14 So I understand the point that plaintiffs' counsel is
15 making, but I think this is the right response. So I will give
16 it to my courtroom --

17 MR. WARSHAVSKY: Your Honor, can I just make one
18 point?

19 THE COURT: Go ahead.

20 MR. WARSHAVSKY: I'm sorry.

21 THE COURT: Go ahead.

22 MR. WARSHAVSKY: In the question itself, the predicate
23 was intentionally -- in the question it says was intentionally
24 designed to mislead. So I think that intent element is already
25 there and understood by the jurors.

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1 THE COURT: Well, I hear what you're saying, and I
2 think your argument is not without some force. But I think in
3 the end, it's more important to convey -- or reduce the very
4 confusion that defense counsel posited was maybe implicit in
5 their note, so I will go with my proposed instruction.

6 All right. Stay tuned.

7 (Recess pending verdict)

8 THE COURT: So we've received another note which we
9 will mark as Jury Note 4.

10 Dear Judge Rakoff, No. 1, if the jury decides that
11 Mr. Rothschild infringed and diluted the trademark and is
12 liable for cybersquatting, yet feels there is a First Amendment
13 protection, is he able to continue selling the NFTs, as well as
14 keep ownership of the www metabirkins.com?

15 No. 2, if we are unanimous on the first three charges,
16 but can't resolve the First Amendment issue, what happens?

17 So with respect to No. 2, I think the answer is we
18 will ask you to continue to deliberate. It's only early
19 February.

20 With respect to the first question, I think the answer
21 is, in effect, that's not to be determined by this litigation.
22 I can't remember, did plaintiff move for injunctive relief?

23 MR. WARSHAVSKY: We did, your Honor.

24 THE COURT: Oh, all right. So it could be determined
25 by this litigation.

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1 So I think the answer to that would be it would be
2 determined by the Court; but the determination has not yet been
3 made.

4 MR. WARSHAVSKY: Actually, your Honor, I think the
5 answer would be just yes, because if they were to grant the --
6 if the jury were to find for --

7 THE COURT: Well, the problem is the way they worded
8 it. I'll read it again.

9 If the jury decides that Mr. Rothschild infringed and
10 diluted the trademark and is liable for cybersquatting, yet
11 feels there is a First Amendment protection, is he able to
12 continue selling the NFTs as well as keep ownership of www
13 metabirkins.com?

14 I interpret that to mean that they would answer the
15 jury verdict liable, liable, liable, on the first three claims,
16 and then would say barred by First Amendment. So at that
17 point, if there's any equitable remedies available such as
18 injunctive relief, doesn't that have to be decided by the Court
19 after hearing from both sides?

20 MR. WARSHAVSKY: Your Honor, I could confer with my
21 colleagues, but my understanding is if there's First
22 Amendment -- that if they went with Mr. Rothschild on the First
23 Amendment, that kind of undercuts the first three findings. I
24 don't know how you could issue an injunction.

25 THE COURT: I can see many possibilities. I don't

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1 want to take too much time discussing them now, because they
2 would be the subject of -- but, for example, the First
3 Amendment protection doesn't necessarily mean that, going
4 forward, a claim could not be made for injunctive relief.

5 Also, it's a great shame that I understand
6 Mr. Rothschild is sick and at home, though, at his request, if
7 there is a verdict today, we'll Zoom him in. But I'm willing
8 to bet that he might agree to this, given the position he
9 took --

10 MR. SPRIGMAN: Your Honor, if I might address that,
11 I'm sorry, when you're done.

12 THE COURT: Yes.

13 MR. SPRIGMAN: Your Honor, we agree with you that
14 there is something remaining to be determined here, a First
15 Amendment protection applies. We think the problem is much
16 deeper than that.

17 First, the jury appears to be engaging in logrolling
18 with respect to his First Amendment rights, meaning they appear
19 from this question to be determining whether the First
20 Amendment protects his artistic expression in part by what they
21 think the consequences are. And that, your Honor, A, is
22 prejudicing my client, not fair, not First Amendment doctrine.

23 But also, this is an artifact, your Honor, again, of
24 the way you structured the jury instructions. So the way you
25 structured the jury instructions, as I mentioned last Friday --

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1 THE COURT: Well, so wait a minute, I'm not sure I
2 read the first part of the letter the way you do. And in any
3 event, I'm not sure it's not within the broad prerogatives of
4 the jury, which has, under the law, very broad discretion. But
5 assuming you're right, for the sake of argument, then the right
6 answer to number one is it shouldn't be part of your concern,
7 so disabuse them of that fear that you have.

8 MR. SPRIGMAN: Your Honor, I think you might attempt
9 to disabuse them of the concern, but I think they have the
10 concern.

11 THE COURT: You know that from your deep -- or maybe
12 you've talked to Dr. Neal about psychology?

13 MR. SPRIGMAN: Your Honor, I have not talked to Dr.
14 Neal and this is not his branch of psychology.

15 THE COURT: That's for sure.

16 MR. SPRIGMAN: I would suggest to you that this
17 question at least raises the possibility --

18 THE COURT: So what is your application?

19 MR. SPRIGMAN: My application is that you grant a
20 JMOL, because at this point --

21 THE COURT: Denied.

22 MR. SPRIGMAN: Thank you.

23 But then, your Honor, I think we should talk about
24 whether there's some representation we can make to them about
25 that possibility remaining open. Because right now --

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1 THE COURT: Here, it seems to me — and I'll hear from
2 plaintiffs' counsel in a minute. It seems to me there are two
3 possibilities with respect to Question No. 1. Either to say
4 this is not your concern; or to say it will be determined, if
5 at all, at some later date. I'm open to both of those
6 possibilities, but I'm not clear which of those two you are
7 electing.

8 MR. HARRIS: Your Honor, may I ask you a question to
9 follow up on something you said?

10 THE COURT: Yes.

11 MR. HARRIS: Mr. Rothschild is reachable. Should we
12 ask him your question?

13 THE COURT: Yes, but I think that's for the future,
14 his view on this. I don't think we should say -- it clearly
15 would not be proper to say to the jury, Mr. Rothschild has now
16 agreed to X, Y, or Z. That would be inappropriate. But I
17 certainly -- I had the impression, which could be totally
18 wrong, that he didn't want to spend his life litigating further
19 with Hermès.

20 MR. HARRIS: I believe -- don't hold me to it, your
21 Honor, but I believe he testified that he is moving on.

22 THE COURT: All right. In any event, let me --
23 assuming that the choice in response to No. 1 is either to say
24 this is none of your concern or to say it will be determined,
25 if at all, at a later date, which do you prefer?

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1 MR. SPRIGMAN: Your Honor, I think determined at all
2 at a later date. But I wonder if you could indicate to them
3 that the determination would be made by you.

4 THE COURT: Okay. That's a possibility.

5 Let me hear from plaintiffs' counsel.

6 MR. WARSHAVSKY: Your Honor, I think -- I'm troubled
7 by this because I think the jury is reacting here to
8 plaintiffs' opening and -- defendant's opening and defendant's
9 closing. Defendant's opening --

10 THE COURT: Oh, my God, what a terrible thing.

11 MR. WARSHAVSKY: They are allowed to. But I think
12 what they are struggling with is that the way it was presented
13 to them was that this is a -- that the First Amendment is there
14 as a protection to obviate the need and to allow Mr. Rothschild
15 to do this. So I think they are responding to that. I think
16 this is the right question.

17 I'm surprised to hear how defense counsel responded
18 because I would have thought they said the First Amendment is a
19 blanket or it's not. And if it's a blanket to liability, I'm
20 not sure -- I'm still not sure I understand how that -- how you
21 could still fashion injunctive relief. I must admit that's
22 a --

23 THE COURT: So wait a minute. I just want to make
24 sure I understand your position.

25 Your position is that if they grant the First

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1 Amendment bar that, in your view, Mr. Rothschild could continue
2 with his use of metabirkins.com and the use of the images,
3 etc., is that your --

4 MR. WARSHAVSKY: I don't think we -- your Honor, I
5 hadn't thought about it until this instruction came out. I
6 always thought that was the defense position, that was what I
7 understood their argument to be, both before and after trial
8 and in prior pleadings, that this creates a protection. I
9 would love to move for an injunction. I certainly don't want
10 to waive that right. And I understand your question and I
11 understand that it may not be answering exactly -- of course we
12 would --

13 THE COURT: But let me put to you the same choice I
14 put to your adversary. Assuming, notwithstanding all the good
15 arguments from both sides, this stubborn judge thinks that
16 there are only two possible answers to Question No. 1, either
17 this is not your concern, diplomatically, or that this will be
18 determined, if at all, at a later time by the judge.

19 MR. WARSHAVSKY: Of those two options, your Honor, I
20 think the second is the option that we would want.

21 THE COURT: Okay. So both sides seem to agree that's
22 preferable.

23 Now, the second question was, if we are unanimous on
24 the first three charges, but can't resolve the First Amendment
25 issue, what happens? And I do think there's only one possible

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1 answer to that, which is, you need to continue to deliberate
2 and make every effort, if possible, to reach a conclusion on
3 all the issues presented to you.

4 Yes? Anyone disagree with that?

5 MR. WARSHAVSKY: No disagreement, your Honor.

6 MR. SPRIGMAN: Your Honor, I just want to note that
7 what -- again, my concern here is what's at play is that you in
8 your instructions said you should change your mind, if your
9 mind is changed, which seems tautologically correct to me, but
10 you should not change your mind simply to go along -- you
11 should not change your mind simply to walk out of here. And
12 I'm afraid that, again, we are at a point where they feel they
13 can't resolve the First Amendment issue and --

14 THE COURT: See, I'm surprised, given the arguments
15 you've made, none of which have yet persuaded me, but
16 nevertheless --

17 MR. SPRIGMAN: I'm trying.

18 THE COURT: -- that you would move for a mistrial.
19 What could be more fun than to try this case again? I would
20 put aside everything else.

21 MR. SPRIGMAN: Your Honor, I must say, I'm not done
22 yet, but I was getting there. I mean, this is my point. I
23 think where we are right now is Question 1 suggests we have
24 possibly logrolling with consequences at stake, right. In
25 other words, like what is he going to do -- whether he has a

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1 First Amendment right depends on what we think he's going to
2 do, which is odd. And the second one is, you know, we probably
3 can't resolve this, I read this, because, you know, "think
4 harder" is maybe not going to work. And so if it doesn't work
5 and we can't resolve this, what's going to happen? Because if
6 what's going to happen is everything gets thrown out, all our
7 work gets thrown out, then we will agree, even if we don't
8 agree, we will --

9 THE COURT: So I really, with deep respect, think that
10 you are overanalyzing the secret jury proceedings just based on
11 a few words in a note. I always talk or my law clerks always
12 talk to the jurors after the end of the case, and I've done
13 that now for over 300 jury trials. And I find there's always
14 things that they say that I didn't expect.

15 But I also find that, in the end, really without
16 exception, they are very good about following the instructions
17 of the Court. That's why I'm surprised. I would have thought
18 you would have -- if you think the jury is under this
19 misimpression, the logrolling issue, you would have preferred
20 the first approach, namely, it's none of your concern. And I
21 think they would have adhered to that instruction. But you
22 have taken the other route.

23 MR. SPRIGMAN: Your Honor, in a sense, I cannot claim
24 your expertise in what juries think, but I do not have this
25 record of talking to juries. I am concerned just as defense

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1 counsel that they are considering consequences like this, and
2 you tell them not to consider consequences, even if they are
3 not aware of it, even if -- because people often are not aware
4 of their own thought processes. And when they recount their
5 thought processes later, they are telling you something, but it
6 doesn't necessarily capture their thinking.

7 I do social science in my other job, and that's a
8 constant problem in social science.

9 THE COURT: Analyzing the subconscious thoughts of the
10 jury is something that I have not undertaken to do and I
11 will -- since Professor Freud is dead, we may have to forego
12 that opportunity in any event.

13 But, in any event, both sides agree I should give the
14 second alternative, so let me draft something and then see how
15 it looks to you.

16 Okay. So here is my proposed note to the jury:

17 Thank you for your most recent note. With respect to
18 Question No. 1, any determination of whether Mr. Rothschild can
19 continue selling the NFTs and keep ownership of www
20 metabirkins.com, if you find he is liable for Hermès' three
21 claims, but that such liability is barred by the First
22 Amendment, protection is something that will be determined, if
23 at all, by the Court at a later date.

24 With respect to Question No. 2, if you are unanimous
25 on the three claims but cannot resolve the First Amendment

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1 issue, you will need to continue your deliberations in
2 accordance with instruction number 18, which sets forth all the
3 stuff about don't give up your conscientious views, but make
4 every effort to reach a verdict. So that last part was not
5 part of the note, just to fill you in on what instruction
6 number 18 says.

7 So any objection to that from plaintiff?

8 MR. WARSHAVSKY: Your Honor, I think what you said is
9 faithful to option one. I continue to be troubled by the idea
10 that we -- if we go to simply the cybersquatting claim, for
11 example, because maybe that's the easiest to discuss here, that
12 if we tell the jury that that's to be decided at a later
13 date --

14 THE COURT: I really am having real difficulties with
15 both lawyers here. I've offered you the option of just simply
16 saying it's none of your concern, and both sides rejected that.

17 MR. WARSHAVSKY: Well, we certainly rejected it
18 because of the way the closing arguments went. I think what
19 you said -- I have no objection to what you just wrote as being
20 faithful to option one. And if I'm choosing between only
21 option one and option two, then that's it, I think then it's
22 really the prior objection that I was restating.

23 THE COURT: I'm not sure I understand your objection
24 to option one. What is wrong -- and to tell you the truth, the
25 more I'm thinking about it to myself, the more I'm thinking

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1 that option one may be the better approach.

2 Basically, they've asked a hypothetical which defense
3 counsel is reading a lot into, but whatever it may or may not
4 reflect, it's really not their concern. It's the functional
5 equivalent, the more I think about it, of a jury asking in a
6 criminal case, What's the penalty? And the law is crystal
7 clear that the answer to that is, It's not your concern. And I
8 think this is functionally the equivalent.

9 So I'm rethinking this and thinking maybe,
10 notwithstanding the excellent arguments made by both sides,
11 that I should change the answer to No. 1 to simply say, It's
12 not your concern.

13 MR. SPRIGMAN: Your Honor, if you do that, would it be
14 possible to add to -- "it's not your concern" is the gist, but
15 the concept I'm trying to get across is something like, In
16 determining whether the First Amendment protects him, you need
17 to focus on the matters in front of you and not future
18 consequences.

19 THE COURT: I might consider that.

20 Any problem with my response to Question No. 2?

21 MR. SPRIGMAN: Your Honor, I'm sorry, could you just
22 give us one moment?

23 THE COURT: Yes.

24 I'll tell you what, while you're all thinking about
25 this, I was supposed to have lunch at 1 o'clock with Judge

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1 Rochon. Let me go tell her that we're going to need to
2 reschedule. I'll be right back.

3 (Recess)

4 THE COURT: Judge Rochon was kind enough not to
5 express her condolences to me.

6 Okay. Here's my latest version, having thought
7 further about this, for the note responsive to their note, and
8 then we have one other item to take up.

9 "To the jury, thank you for your most recent note.
10 With respect to Question No. 1, you should not concern yourself
11 with the consequences, if any, of any verdict you may render.
12 You need to focus solely on deciding the issues presented for
13 your determination.

14 "With respect to Question No. 2, if you are unanimous
15 on the first three items on your verdict form, but cannot yet
16 resolve the fourth question involving the First Amendment
17 protection, you need to continue your deliberations in
18 accordance with instruction number 18."

19 Putting aside all previous objections from counsel for
20 both sides, all of which are preserved for the wonderful appeal
21 that will inevitably follow, regardless of verdict in this
22 case, any problems with that wording from plaintiffs' counsel?

23 MR. WARSHAVSKY: No, your Honor.

24 THE COURT: From defense counsel?

25 MR. SPRIGMAN: No, your Honor.

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1 THE COURT: All right. So I'll give that to my
2 courtroom deputy to take it to the jury.

3 Now, you may recall that we had told Juror No. 6 that
4 she would be excused if the jury didn't reach a deliberation
5 today. And she has sent a note now, which I'll read, but just
6 basically re-raising that issue.

7 Hello, Judge Rakoff. I was told you have to leave by
8 3:30 p.m. today. I wanted to plan ahead. My understanding is
9 that I am excused after today to return to my job. I wanted to
10 make sure there is nothing else I needed to do today if we are
11 to -- if we are not to reach a verdict. Does the jury proceed
12 and act as if I never existed? Thank you.

13 And then it's signed by Juror No. 6.

14 So my suggestion is that we meet in the robing room on
15 the record, sealed, except as to the parties, with Juror No. 6
16 to see if we can prevail on her to give us one more day. If
17 she says no, we have to accept that, given the representations
18 we all made to her from the very get-go, and she did flag this
19 from day one. But I think that we might prevail.

20 I would caution her, before we even start, Don't tell
21 us anything about what's going on in the jury room, but we
22 would like you to continue.

23 If she is excused, then I think the jury -- and the
24 law is clear, I think, that the jury continues, but are free to
25 take account of whatever she said before she was excused. This

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1 happens all the time, usually for reasons like a juror gets
2 sick or something like that. And you don't tell the jury at
3 that point, Start all over again. You say, Just continue.
4 It's different from a situation where, like in a criminal case,
5 where there are alternates and a juror is excused and the
6 alternate comes in, then they have to start again. But that's
7 because the alternate was not part of the earlier
8 deliberations.

9 So I think we could -- if they don't reach a verdict
10 by 3:30, we could bring them in and simply tell them that they
11 should continue their deliberations, and they don't have to
12 excise from their deliberations whatever the excused juror may
13 have said during deliberation.

14 Any disagreement with that?

15 MR. WARSHAVSKY: Not from plaintiff, your Honor.

16 MR. SPRIGMAN: Nor from us, your Honor.

17 THE COURT: Okay. So let's get Juror No. 6 and bring
18 her in and see if we can prevail on her to give us one more
19 day.

20 MR. WARSHAVSKY: Your Honor, as a practical matter, I
21 had a question which is --

22 THE COURT: I'm sorry?

23 MR. WARSHAVSKY: I just had a question about the
24 scheduling. Does the jury then break at 3:30?

25 THE COURT: See, I teach at Columbia. I teach at

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1 NYU -- I don't know if any of you ever heard of that law
2 school. I teach at NYU on Mondays from 6:30 to 8:30, so we can
3 stay, that's why we could have stayed till 5:30 yesterday, if
4 they wanted to. But I teach at Columbia from --

5 THE DEPUTY CLERK: Juror entering the courtroom.

6 THE COURT: And so I have to leave -- all right.

7 Come into the robing room, counsel.

8 (Pages 1102-1104 SEALED)

9 (Continued on next page)

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(In open court)

THE COURT: Okay. So Juror No. 6 is not sure she can get a replacement, but she's going to give it her best shot and let my courtroom deputy know no later than a half hour from now.

I don't see the need to tell the rest of the jurors who are there, who probably are having their lunch, not to deliberate for the next half hour, unless anyone thinks I should tell them that. Anyone think I should tell that?

MR. WARSHAVSKY: No, your Honor, not from plaintiffs.

THE COURT: Very good.

MR. SPRIGMAN: No, your Honor.

THE COURT: Excellent. Good.

And my courtroom deputy will report to you the results. And now I'm going to have my lunch, consisting of a few dried apricots and whatever else I can find at my desk.

So see you soon.

Oh, and I'm sorry, you guys, I think under these circumstances, why don't you take lunch in waves, so to speak, so there's always someone here, but the rest of you can take lunch.

(Recess pending verdict)

THE COURT: Please be seated.

All right. So first, thanks to Juror No. 6's excellent efforts, she is able to serve tomorrow. She'll just

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1 be slightly delayed till 10 o'clock; so deliberations won't
2 commence tomorrow until 10 o'clock.

3 Second, the jury asked whether they could stay to 5:30
4 today. Through my courtroom deputy, I informed them that they
5 could stay to 5:30, but I had to leave at 3:30 to teach; so
6 they couldn't send any notes or a verdict or anything, but they
7 could continue to deliberate. And they apparently
8 Solomonically resolved that by saying that they -- in the note
9 that I'm about to read, "Jury is leaving at 4:30 p.m. We will
10 return at 10 a.m. tomorrow."

11 So kudos to our jury.

12 Very good.

13 And we'll see you guys tomorrow at 10 o'clock.

14 MR. HARRIS: Thank you, your Honor.

15 MR. WARSHAVSKY: Thank you, your Honor.

16 (Adjourned to February 8, 2023 at 10 a.m.)
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